

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

Meeting Summary

Common Interest Communities Workgroup Meeting
Tuesday, October 18, 1:00 p.m.
House Room 1, the Capitol

Introduction

The Common Interest Communities (CIC) Workgroup of the Virginia Housing Commission (the Commission) met to discuss the current state of common interest communities in Virginia. The meeting was called to order at 1:09 p.m. by the Chair, Delegate David Bulova. Workgroup members made their introduction, and the meeting format included presentations and discussion.

Presentations

Report on Common Interest Communities Board and Ombud Activity

Heather Gillespie, Ombud, Department of Professional & Occupational Regulation (DPOR), presented statistics from her office for the last ten years. She reported that her office no longer reports on time share complaints (time shares are excluded as common interest communities, as of the last two years). Gillespie commented that DPOR has received several notices of Final Adverse Decision (NFAD), with the most common subjects being access to books and records, notice of meetings, and information distribution. Gillespie stated that her office has created new documents to explain the different types of association complaints and information on the proper filing of a NFAD.

Pia Trigiani, of Community Associations Institute, commented that communication among property owners is poor. She encouraged this Workgroup to look for ways to improve communication. She also asked that the CIC Workgroup explore insurance coverage for water damage. Delegate Bulova requested that the Commission research these issues and work toward completion by the 2024 session.

DELEGATE DANIEL MARSHALL III, Chair
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SENATOR GHAZALA HASHMI

JAMES FOREST HAYES
JOSHUA GOLDSCHMIDT
LAURA LAFAYETTE

Erin Kormann, of Virginia REALTORS, asked if complaints listed in Ms. Gillespie's report, (whether within their jurisdiction or not) are complaints that have been resolved. Ms. Gillespie responded that yes, complaints are considered closed, but if the company has not come into compliance, the file is flagged with a timeframe for the association to come into compliance. Ms. Kormann went on to ask about the criteria to submit a complaint all the way to the Common Communities Board of DPOR. Ms. Gillespie responded that DPOR does follow a process by which issues are presented to the Common Interest Communities Board.

Delegate Bulova asked if time shares should be added back under the purview of the Common Interest Communities Board. Ms. Gillespie answered that complaints of this nature are primarily due to owners attempting to sell time shares and who are unable to get out of a contract, answering that this particular issue is not dealt with by the Common Interest Communities Board.

Joseph Haughwout, Board Administrator, DPOR, presented updates on the CIC Board of DPOR, and announced who are the new members of the CIC Board. Mr. Haughwout mentioned the general concepts of Senate Bill 740 and Senate Bill 693. (All materials are available on the Virginia Housing Commission website.)

Senator Scott Surovell: Minimum Thresholds for Use of Nonjudicial Foreclosure

In his presentation, Senator Scott Surovell summarized his proposed bill with this question: under what circumstances should a common interest communities association be able to conduct a nonjudicial foreclosure? He stated that this bill calls for a \$5,000 threshold before a house can be foreclosed upon. Surovell asserted that there is no judicial review of current processes.

Questions and comments followed the presentation. Sen. Surovell stated that the cases this bill will cover are few and far between, nonetheless he asserted that this bill is necessary to squash the outliers who do fall under this legislation. Delegate Bulova inquired about the possibility of reworking the bill, as there is not yet consensus concerning the content. Bulova requested that Pia Trigiani and Jerry Wright further examine the bill and offer suggestions to adapt it for a new presentation to the Workgroup at a later date.

Pia Trigiani: Update on Structural Integrity Work Group (SB 740, S. Surovell, 2022)

SB 740 addresses standards for structural integrity and for maintaining reserves to repair, replace, or restore capital components in common interest communities. Ms. Trigiani said the bill, which Senator Surovell drafted, is based on concerns stemming from events in Florida, where a condominium collapse exposed the lack of review on structural integrity due to lack of maintenance. Ms. Trigiani stated that Virginia is one of nine states that requires businesses to conduct a reserve funds study every five years. Even with a required study there is no mandatory requirement for businesses to put money into reserve accounts to cover structural components. A group of stakeholders (approximately twenty-five people) has been asked to study SB 740. Four

meetings of this workgroup will be held in different areas of the state of Virginia. If legislation is created from those undertaking this study, it will be ready for the 2024 session.

Discussion included questions and comments from CIC Workgroup members.

Delegate Bulova commented about the lack of enforcement by common interest community boards (and members of communities themselves) to raise assessments when necessary, so that reserves are available in times of crisis. Ms. Trigiani stated that the issue is one of enforcement. She asserted that currently local governments do not see an inspection role as helpful or effective, further asserting that structural testing is what is actually necessary. She stated that reserve fund studies need to be done to make sure monies are available, and the workgroup for SB 740 will be addressing this issue. Senator Surovell reported that there was a partial building collapse in his district, he asserted the need for mandatory compliance enforcement on reserve funds.

Pia Trigiani: Monetary Charges for Recurring Offenses

Mr. Lenny Kaplan and Mr. Howard Silver, condominium residents in Delegate David Bulova's district, introduced this topic via Zoom. They presented concerns with the current Condominium Act including a lack of specificity in the current wording, and questions about taking legal action in such cases.

Pia Trigiani presented a draft with updates to the Condominium Act and the Property Owner's Association Act. One major change in the Condominium Act is that in its new wording, a local HOA boards would have the authority to assess and assign monetary charges for offenses. A second change addresses the need for a formal process in dealing with recurring offenses, stating that there would not be a need for a second hearing rather a board would have the authority to act if a repeat violation is reported. For single offenses, new wording would give the property owner an opportunity for a hearing, and then a monetary charge could be assigned.

Discussion followed including comments and questions by several CIC Workgroup members, including discussion of the term "recurring." It was concluded that "recurring" offenses refer to those occurring during the same calendar year.

Public Comment

There was no public comment.

Adjournment

The meeting was adjourned at 3:18 p.m.

* * All meeting materials are available on the Virginia Housing Commission website. * *